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November 8, 2024

VIA ECF

Hon. Lewis J. Liman
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Freeman et al. v. Giuliani, No. 24-cv-6563 (LJL)

Dear Judge Liman,

Plaintiffs Ruby Freeman and Wandrea' Moss respectfully submit this letter to note that "Point III" of Defendant's reply in support of his cross-motion for summary judgment, ECF No. 64 at 10-14,¹ responds to arguments made in Plaintiffs' motion for summary judgment and Plaintiffs' reply in support of that motion, and is accordingly an improper sur-reply that should be disregarded. Local Civil Rule 6.1 does not authorize a sur-reply, and "[s]ur-replies filed without the court's permission are generally considered improper." *Trombetta v. Novocin*, No. 18-CV-993 (RA), 2021 WL 6052198, at *13 (S.D.N.Y. Dec. 21, 2021); *Bisesto v. Uher*, No. 19-CV-1678 (KMK), 2019 WL 2537452, at *2 (S.D.N.Y. June 20, 2019) (collecting cases). Here, Defendant cites some concluding statements in Plaintiffs' opposition to Defendant's cross-motion that summarized arguments made in the prior summary judgment briefing (ECF No. 54, at 30-31), using that as a hook to spend half of his reply in support of his own cross-motion arguing why *Plaintiffs'* motion should *not* be granted. The Court should treat that section of Defendant's reply brief as an improper sur-reply in opposition to Plaintiffs' motion for summary judgment, and "not consider the arguments presented" therein. *Clear Channel Outdoor, LLC v. City of New Rochelle*, No. 20-CV-9296-NSR, 2022 WL 12404476, at *2 (S.D.N.Y. Oct. 20, 2022).

Respectfully submitted,

s/ Aaron E. Nathan

¹ Pincites to ECF documents cited herein refer to the pagination in the ECF docket stamp rather than the document's internal pagination.